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THE SUPREME COURT
OF THE UNITED STATES
OCTOBER TERM 1968

—o—

RILEY LEON HUGHES

Petitioner,

vs.

J. HERMAN GENGLER
Respondent.

No. 877

PETITION FOR WRIT OF CERTIORARI

Petitioner in propria persona
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NOTE: —

1. Source of reference material used noted in appendix.

2. The Honorable Judges of the SUPREME COURT should obtain a copy of the entire record of this case in order to better observe the unnecessary complications placed in the way of petitioner, obtaining justice. Those who have opposed this case can well afford long distance telephone bills. The husband of the petitioner's sister, a painter, had not much work in the winter of 1966, and had difficulty collecting for some of that. Petitioner had sent sister who wrote the emergency letter that is the root of of this case money, to buy food.

THE SUPREME COURT

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RILEY LEON HUGHES Petitioner, vs. J. HERMAN GENGLER Respondent.	)	No.

PETITION FOR WRIT OF CERTIORARI

To the Honorable Chief Justice of the UNITED STATES, EARL WARREN and to the Associate Justices of the SUPREME COURT OF THE UNITED STATES.

The petition of RILEY LEON HUGHES for a WRIT OF CERTIORARI, to be directed to the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, of San Francisco, California, to review a judgment of that Court (No. 22122) entered on the second day of October, 1968, and rehearing denied on the thirtieth day of October 1968, in favor of the Respondent against the Petitioner, with BRIEF in support thereof.

To the Honorable members of the Court, your petitioner respectfully pleads:

I

Jurisdiction lies in the Supreme Court under Title 28 § 1254.

II

This case should be examined with respect to influence by the Supreme Court on the decision making of the lower courts in this case, by its decision in favor of William G. Barr, Acting Director of Rent Stabilization, a Federal Agency, in Barr vs. Matteo, 360 U.S. 564, 79 S. Ct. 1336. The conduct of Mr. Barr in that case was subject to the direct notice of the Congress and influenced by the Congress. The lower Courts have chosen in the present case to ignore arrogant conduct by the Respondent, a postmaster, far removed from the Congress and responsibility for policy making.

POSTAL MANUAL

See page 4 for direct quotations.

DOCUMENTS QUOTED

BRIEF FOR APPELLANT
ANSWERS TO BRIEF FOR APPELLEE
REVIEW OF THE SIGNIFICANT PARTS OF THE RECORD . . . BRIEF HISTORY OF THE CASE
(Copies forwarded)

III

The decision of the lower courts circumvents a parallel case, Teal vs. Felton, 90 U.S. N.Y. 12 Howard, 289, 13L. Ed. 990, which was properly allowed to proceed through the state courts. The postmaster's action in that case was not sanctioned by any government or postal regulation. (This case noted in Appeal Court's decision on Page 7.)

QUESTIONS PRESENTED

1. Whether the Respondent in this case, because of being a postmaster, is entitled to the government services he received.

2. Whether removal of this case from the small claims court was a proper legal maneuver.

(It has added strain and expense to the petitioner's search for justice.) The Judge of the small claims court would probably not have charged Mr. Gengler as much for telling him that receiving money for services not given, was not considered a legal practice, as he spent for the Appeal Bond. That cost him the sum of eleven ($11.00) dollars.

3. Whether the sum paid for special delivery service should be refunded, as required by the Postal Manual.

4. Whether the postmaster should have accepted the petitioner's complaint.

ARGUMENT

The substance of this case is the arrogant refusal by the Respondent, a postmaster, to grant to the petitioner, a postal patron, privileges recommended by the Congress and rights lawfully allowed to him by the Postal Manual. These privileges are service, the right to make a protest, and the right of a refund for services for which payment was made and not received. The authority for such privileges are:

> "TITLE 39 U.S.C. Sec. 2301
> (5) . . While the Postal establishment as all other Government agencies should be op-

erated in an efficient manner it clearly is not a business operated for profit of the raising of funds . . .

Section 2302 . . . (1) that the post office is a public service.

POSTAL MANUAL PART 313
CUSTOMER COMPLAINTS.

313.2 ORAL COMPLAINTS

.21 Employees must make a memorandum in writing on Form 1835, Record of call or visit, of all complaints received either in person or by telephone.

POSTAL MANUAL Part 147.23 Amount of Refund avaliable.

.231 Refund of 100 percent will be made:

f. When fees are paid for special delivery, special handling, and certified mail, and the article fails to receive the special service for which the fee has been paid."

Section 2301 of Title 39 is mentioned in petitioner's Answering Brief at the bottom of page 4; quotations from the Postal Manual in Brief For Appellant pages 10 and 11. These references just given were not quoted or considered in any way in the decision of the Appeals Court.

As the Respondent, postmaster was not thus acting within his duties as a posmaster, in not abiding by the above mentioned regulations, Section 1442 of Title 28 was improperly applied in this case. It is the position of the petitioner that government attorneys, as representatives of the United States Attorney General act as (Amicus Curiae) to serve to see that justice is served, and not to act as partisans bent upon thwarting any action taken against a fellow government employee. The Appeals Court made mere caustic comment on this action, lower part of page 3 of its decision. The action to thwart petitioner's effort to obtain justice is a violation of petitioner's civil rights under Title 18, 241, Conspiracy against rights of citizens, U.S. Supreme Court Reports, 201 ed 2d, Conspiracy 17 · civil rights statute - scope . .

The decision of the Appeals Court on pages 1, 2, and 3 describe the circumstances under which the petitioner was not allowed to receive a letter through his post office box that was marked AIR MAIL SPECIAL DELIVERY, although it arrived on a postal holiday and the post office had no home address of the petitioner to make special delivery possible. With respect to regulations quoted on Page 3of this document, logic should demand the following reasoning process:

"Q. Were you required to pay a fee for special delivery service?

A. Yes, full payment was demanded for special delivery service. Twenty seven (27c) was paid by the sister of the petitioner and three (3c) was demanded of and paid by the petitioner.

Q. Does the Postal Manual describe what constitutes special delivery service?

A. Yes, such service is described on page 5 last paragraph and page 6 of the decision of the Appeals Court.

Q. Were any of the services described applied toward the delivery of the letter to the petitioner?

A. No."

The Appeals Court affirms this in its decision, bottom of page 9, ". . . he (the petitioner) cites no cases, statutes, or regulations that require or make it a duty of a postal employee to 'indicate' the nature of the mail held for postage due or to ascertain an address 'connected with' a letter; and we can find none."

"Q. Was a complaint made to the postmaster Mr. J. Herman Gengler?

A. Yes a complaint was made.

Q. Did the postmaster offer to accept your complaint?

A. He refused to accept the complaint of the petitioner, that he was charged for services that he did not receive, he refused to accept any complaint whatsoever."

The decision of the Appeals Court: "We conclude the defendant postmaster in no way violated any law, statute or regulation of the United States or of the Post Office Department . . appellant is not entitled to three cents damages . . ." does not satisfy the above

reasoning, or the evidence presented in this case. Such a decision presents the petitioner with the duty to appeal.

When the petitioner protested to the Marysville, California postmaster, J. Herman Gengler, Respondent in this case, the action of the postal clerk in demanding and receiving an alleged deficiency in postage for alleged special delivery service, and the postmaster refused to accept the protest, the petitioner proposed that the judge of the local small claims court determine whether or not the postmaster's position was a legal one. To this proposal the Respondent, Mr. Gengler, said, "Go ahead . . ." It is the position of the Petitioner, that a gentlemen's agreement, or contract was made to allow the judge of the small claims court, to determine whether or not the collection of a fee for services not give and a refusal to accept a protest against such an act was against the law. This action was described in detail in the petitioners - REVIEW OF THE SIGNIFICANT PARTS OF THE RECORD OF THE ABOVE CASE FOR THE USE OF THE UNITED STATES COURT OF APPEALS AT SAN FRANCISCO, CALIFORNIA AND A BRIEF HISTORY OF THE CASE, and referred to in the opening statement of Brief For Appellant, page 7. These documents should be made available to the Supreme Court, This action by Mr. Gengler, the Respondent, was not mentioned in the decision of the Appellate Court.

A reporter, Wallace Lagorio, for the Sacramento Bee, (a Sacramento newspaper that has consistently supported Federal Administration policies) in an interview with the petitioner, quoted the result of inter-

viewing defending personnel, "A decision for the appellant would encourage numerous similar suits". This case has attracted considerable publicity, and the avoidance of the issues in this case are apparent.

The petitioner wishes to emphasize to the Honorable Judges of the Supreme Court the existence of a legal and social duty to take cognizance to the pressures that have been exerted to defeat justice in this case. The significance of the pressures far outweigh the intrinsic worth of the case. Personal letters like love are difficult to evaluate and both can convey passion, or sacrifice. The moral obligation to let justice prevail should override any amoral pressure to consider expediency and case load. This case could be better used to justify more courts, than to view the struggle here below with a reluctance to become involved, not unlike that of those who watched Catherine Genovese' last half hour, as she was being stabbed near her Kew Gardens apartment in New York. To make the struggle for justice beyond one's reach or the cost too high, is to give aid to subversive influence and invite the cost of disorder. The Petitioner prays that the Judges of the United States Supreme Court find that the Respondent, J. Herman Gengler was not acting in keeping with the duties attached to the office of postmaster in refusing to accept the petitioner's reasonable complaint, that such action was in violation of Postal Manual regulations and that the case was improperly removed from the small claims court.

Respectfully submitted,

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Petitioner

Dated: December 10, 1968

APPENDIX

Decision of the U.S. COURT OF APPEALS FOR THE NINTH DISTRICT:

We conclude the defendant postmaster in no way violated any law, statute or regulation of the United States or of the Post Office Department, and was entitled to require defendant to pay the three cents before delivering the letter here involved; and hence that appellant is not entitled to three cents damages, or any other sum; and we find that he suffered no damage whatsoever.

Opinion of District Court (Sacramento) as quoted by the APPEALS COURT: (page 4)

The District Court was of the opinion that the three cents appellant seeks was voluntarily paid by him to the government, that no statute, law or regulation requires him to so pay; that he could have refused the letter; that there was no compulsion or coercion on him, but a voluntary payment, though under protest, was made by him, and hence plaintiff below could not recover.

BILL OF COSTS presented to petitioner subsequent to decision of APPEALS COURT from DISTRICT COURT $33.20.

TABLE OF AUTHORITIES

CASES

Barr vs. Matteo, 360 U.S. 564, 79 S. Ct. 1336

Teal vs. Felton, 90 U.S. N.Y. 12 Howard 289, 13L Ed. 990

CODES

Title 18 241
Title 28 Section 1442
Title 28 Section 1254
Title 39 Section 2301
U.S. Supreme Court Reports, 201 ed 2d
Conspiracy 17 · civil rights statute

POSTAL MANUAL

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